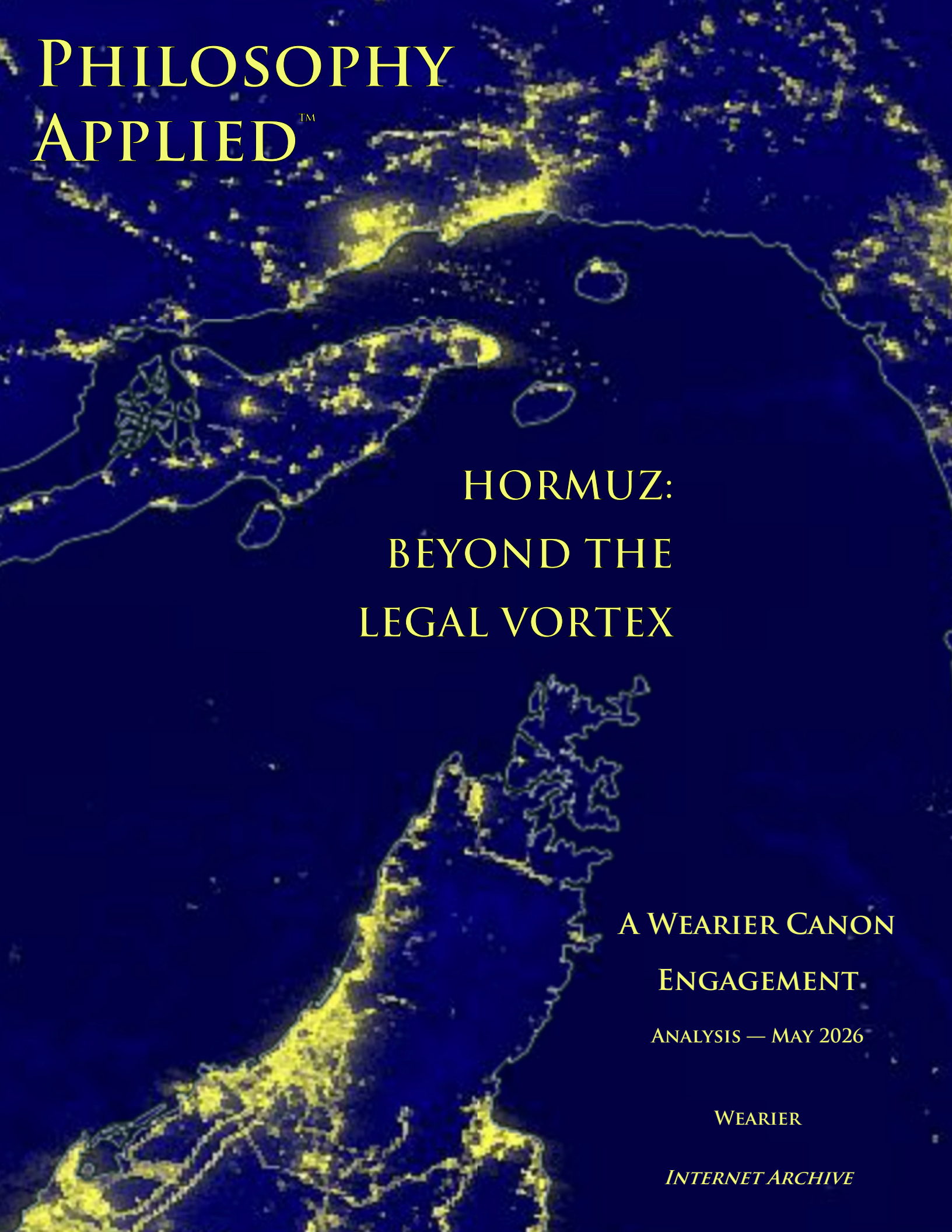

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Hormuz: Beyond the Legal Vortex

A Wearier Canon Engagement

Analysis — May 2026

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In 2013, James Kraska of the United States Naval War College published the most rigorous legal analysis of the Strait of Hormuz in the scholarly literature. It is meticulous, correct, and entirely beside the point.

His conclusion: neither the United States nor Iran, as non-parties to UNCLOS, could claim the navigational rights the Convention provides without accepting the obligations it imposes. A self-reinforcing cycle of incompatible claims with no resolution mechanism — a legal vortex. The strait was the only major international waterway without a governing treaty. Ground zero for any conflict in the region.

He was right about all of it. The 2026 crisis confirmed every structural observation he made. It also confirmed something legal analysis cannot reach: when a state acts on resource control directly, the applicable navigational regime is not the conversation anyone is having. The legal vortex did not cause the crisis. It did not shape the crisis. It was not consulted during the crisis. The Islamic Revolutionary Guard Corps closed the strait. The legal question became obsolete.

This is not a failure of Kraska's analysis. It is a demonstration of what legal frameworks are: secondary structures that govern systems operating below the threshold of direct resource competition. Above that threshold, they describe what should have happened.

THE LAW, STATED PLAINLY

UNCLOS — the United Nations Convention on the Law of the Sea, adopted in 1982 — is the comprehensive treaty governing navigational rights in international waters. Its central bargain: coastal states accepted a more permissive navigational regime through their straits in exchange for a broader twelve nautical mile territorial sea. The rights and

obligations were inseparable — a package deal, explicitly designed to prevent selective adoption.

Neither the United States nor Iran ratified UNCLOS. Iran claimed the twelve nautical mile territorial sea — the benefit — while insisting that only innocent passage, not the more permissive transit passage, applied in the Strait — rejecting the corresponding obligation. The United States claimed transit passage as customary international law — asserting the benefit — while declining the treaty that formalized it. Both positions were legally defensible. Neither was legally decisive.

After decades of diplomatic exchanges and two appearances before the International Court of Justice, the question of which navigational regime applied in the Strait of Hormuz remained unresolved.

Then the Islamic Revolutionary Guard Corps closed the strait. The legal question stopped mattering.

WHAT ACTUALLY DRIVES STATES

Legal frameworks are secondary structures. They govern systems that have already accepted shared rules — states that have agreed to resolve competition over resources through institutional rather than direct means. International law works when the cost of violating it exceeds the cost of compliance. It fails, reliably, when that calculus reverses.

The Strait of Hormuz is not a legal abstraction. It is the narrowest chokepoint through which twenty percent of the world's daily oil supply must pass — the most concentrated expression of resource control on the planet. Thirty-three kilometers of water. Fifteen million barrels of crude daily. The industrial metabolism of Asia, Europe, and the Gulf states running through a single channel.

States are organized systems that persist by securing access to the resources that sustain them. When a state faces the loss of its primary leverage — as Iran did under systematic military degradation of its conventional capacity — it acts on resource control directly. It does not first resolve the question of which navigational regime the coastal state is obligated to honor. The Islamic Revolutionary Guard Corps closed the strait because closure was the only instrument available that matched the scale of the threat Iran faced. No legal framework altered that calculus. None was designed to.

THE INTERESTS THAT PREFERRED THE ABSENCE OF GOVERNANCE

The legal vortex was not merely an unresolved academic problem. For specific actors, it was a productive condition.

Five weeks of closure generated oil price volatility of a magnitude not seen since the 1970s. Energy traders positioned in crude futures, hedge funds with exposure to war-risk insurance premiums, and defense contractors whose order books expand during extended military engagements all held direct financial interests in the perpetuation of instability. Capital flows to where volatility exists. Volatility exists where governance is absent. The absence of permanent governance for the strait was a structural condition that made periodic closure a reliable source of extractable value for those positioned to benefit from it.

The ISA fee mechanism would have destroyed this. By converting the strait into a multilateral utility — predictable, insured, competitively priced — it would have eliminated the volatility premium that closure generates. A permanent governance architecture is not merely a strategic achievement. It is a direct threat to a well-capitalized set of interests that depend on its absence.

This is not conspiracy. It is resource competition expressing itself through financial markets with the same logic it expresses through states: control flows toward those who can sustain it, and is most profitable where it is most contested.

LEGALITY IS A PEACETIME CONCEPT

Hiroshima was not a legal decision. The question of whether the bomb was lawful under the laws of war as they existed in August 1945 was not posed, not answered, and not relevant to the outcome. This was not an oversight. It was the correct prioritization of a system operating under existential resource pressure. The drive to end the war was sufficient. Secondary structures did not apply.

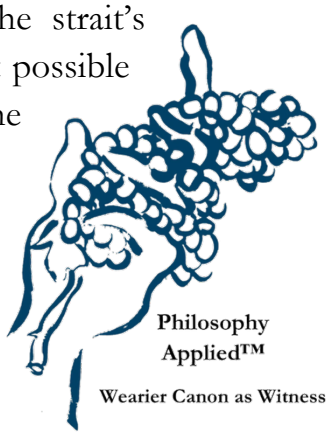
The Strait of Hormuz in 2026 was not Hiroshima in scale. The logic was identical. At sufficient levels of resource pressure, legal frameworks do not constrain behavior — they record it afterward, for those who were not in the room.

THE STRUCTURE THAT ADDRESSES THE ACTUAL PROBLEM

Kraska's analysis was correct in every particular. The legal vortex was real, unresolved, and dangerous. His prediction that the strait would be ground zero in any regional war was confirmed within thirteen years of publication. What the crisis tested — and found wanting — was the implicit premise that resolving the legal question would reduce the danger. It would not have. The danger lived at the level of resource control, where legal frameworks have no purchase.

The ISA (International Strait Authority) proposal, filed March 14, 2026, did not resolve the UNCLOS dispute. It addressed the resource control calculus directly — proposing an architecture that would make the cost of challenging the strait's governance higher than the cost of accepting it, for the widest possible range of actors. That is the only kind of solution that works at the level where the problem actually lives.

The legal vortex remains. The settlement will manage it rather than resolve it. The volatility premium survives. The next crisis arrives when the resource calculus next reverses — under conditions the settlement does not control.



Beyond the legal vortex, the drive for resource control persists. It always does.

ISA Corpus timestamps:

Original proposal: March 14, 2026 · First update: March 21, 2026 · Second update: March 27, 2026 · Third update: April 8, 2026 · Fourth update: May 12, 2026

All documents publicly available at the Internet Archive:
https://archive.org/details/Proposal_Permanent_Governance_Strait-of-Hormuz

Kraska, James. "Legal Vortex in the Strait of Hormuz." Virginia Journal of International Law, Vol. 54:2 (2013).

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